

## DEPARTMENT OF HEALTH SERVICES

714/744 P STREET  
SACRAMENTO, CA 95814

June 7, 1983

To: All County Welfare Directors

Letter No. 83- 43

BELTRAN v. MYERSReference: All County Welfare Directors Letters 81-24, 81-27, 81-37, 81-44,  
82-24 and 82-30

On March 31, 1983, the United States District Court in Los Angeles lifted the stay in the Beltran v. Myers lawsuit. As a result, the State must implement all provisions of the court decision as entered February 8, 1982 which found California's transfer of property regulations in effect prior to July 1, 1981 to be in violation of federal law and, therefore, unenforceable. (Copies of both court orders are attached.) The State is appealing this decision to the United States Supreme Court. In the interim, however, we must develop procedures to comply with the District Court's order.

The court has ordered that a search be made of all available case records and that all ABD-MN persons who applied for Medi-Cal on or before June 30, 1981 and were denied based on the transfer of resources regulations (Sections 50408 and 50409) be notified of the court's decision in this matter. These persons (or their estates) may request a reevaluation of their eligibility and, if found eligible retroactively without regard to any transfer of resources, may request and receive reimbursement for those medical costs incurred which Medi-Cal would have covered.

In order to develop the necessary procedures and to accurately assess the impact of the court order, we request that you complete the attached questionnaire by June 10, 1983 and return to:

Marie Harder  
Medi-Cal Eligibility Branch  
714 P Street, Room 1692  
Sacramento, CA 95814

All County Welfare Directors

- 2 -

If you have any questions regarding this matter, please contact Marie Harder at (916) 445-1797.

Sincerely,

ORIGINAL SIGNED BY

Jo Ann Wray  
Acting Deputy Director  
Health Care Policy and  
Standards Division

Attachments

COUNTY \_\_\_\_\_

CONTACT PERSON \_\_\_\_\_

PHONE \_\_\_\_\_

DATE COMPLETED \_\_\_\_\_

BELTRAN v. MYERS QUESTIONNAIRE

1. Number of flagged ABD-MN cases per ACWD Letters No. 82-24 and 82-30, (applications filed on or before June 30, 1981 and denied/terminated due to a transfer of resources).
2. Number of flagged ABD-MN cases per ACWD Letters 81-27 and 81-37 (applications filed on or after July 1, 1981 and denied/terminated due to a transfer of resources):
3.
  - a. Approximate number of closed ABD-MN cases on hand.
  - b. How far back in time are your files of closed ABD-MN cases.
  - c. Estimate of the total time and type of staff to be used to review these closed cases to identify persons denied or terminated due to a transfer of resources.
4.
  - a. Number of current ABD-MN cases which have not yet been reviewed to determine whether or not there was a previous denial/termination due to a transfer of resources.

b. Estimate of total time and type of staff to be used to review these cases.

5. Any comments/concerns/suggestions regarding the implementation of the court's decision:

1 GILL DEFORD  
2 NEAL S. DUDOVITZ  
3 National Senior Citizens Law Center  
4 1636 West 8th Street, Suite 201  
5 Los Angeles, California 90017  
6 (213) 388-1381

7 Attorneys for Plaintiffs

1983 MAR 14 PM 4:17

FILED

CLERK, U. S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY

8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA

10  
11 ANTONIA BELTRAN, on behalf )  
12 of herself and all others )  
13 similarly situated, )

14 Plaintiffs, )

15 v. )

16 BEVERLEE A. MYERS, et al., )

17 Defendants. )

No. CV 78-2350CBM(Mx)

*CDM*  
~~PROPOSED~~ ORDER VACATING  
THE PARTIAL SUSPENSION  
OF THE INJUNCTION PEN-  
DING APPEAL

18 The Court of Appeals having affirmed this Court's order  
19 of February 8, 1982 (No. 82-5207, 9th Cir., March 8, 1983), and  
20 since this Court's order of May 20, 1982 suspending in part the  
21 order of February 8, 1982 was in effect only "pending appeal" of  
22 the February 8, 1982 order,

23 IT IS HEREBY ORDERED that the "Order Amending the Order  
24 Suspending in Part the Injunction Pending Appeal", filed May 20,  
25 1982, is vacated; and

26 IT IS FURTHER ORDERED that, within 120 days of the date of the  
27 entry of this order, defendants shall provide the individual notifi

28 ///

1 cation to class members, or their estates, described in 15 of the  
2 order of February 8, 1982; and

3 IT IS FURTHER ORDERED that, within 30 days of the mailing  
4 of the notices, defendants shall file a certificate with the Court  
5 setting forth the names and addresses of all persons and estates  
6 so notified; and

7 IT IS FURTHER ORDERED that for those class members who  
8 have already sought reimbursement, defendants shall immediately,  
9 and without delay, take appropriate steps to calculate the amounts  
10 to which they are entitled and to pay them those amounts.

11 DATED: MAR 31 1983 1983

12 CONSUELO D. MARSHALL

13 U.S. DISTRICT JUDGE  
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APR 20 1983

DEPT. OF HEALTH SERVICES  
LEGAL SERVICES

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FEB 4 1982

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CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

CLERK, U. S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
BY DEPUTY

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

ANTONIA BELTRAN, et al., ) NO. 78-2350 CBM(Mx)  
)  
Plaintiff, )  
)  
vs. ) ORDER  
)  
BEVERLEE A. MYERS, et al., )  
)  
Defendants. )

A motion having been made by plaintiff herein to vacate the judgment of this court dated May 10, 1979, and to enter a judgment that the California transfer rule violates federal law and to provide relief,

NOW, on considering the complaints, affidavits, exhibits, discovery and supporting briefs filed herein, and after hearing counsel for the parties, and due deliberation having been made,

IT IS HEREBY ORDERED:

1. That plaintiff's motion is granted and the order of this Court dated May 10, 1979 granting summary judgment to defendants is vacated;

///

1           2. That defendants' policies that were in effect on or  
2 before June 30, 1981 which applied a transfer of assets rule to  
3 individuals seeking Medi-Cal benefits, pursuant to Welf. & Inst. C.  
4 §14015 and Title 22 of the California Administrative Code, is  
5 hereby declared to have been invalid as violative of federal law  
6 and therefore of the Supremacy Clause;

7           3. That defendants, their successors in office, agents,  
8 employees, and all persons acting in concert with them, are  
9 permanently enjoined from denying Medi-Cal benefits to plaintiff  
10 Beltran and all members of the class who were denied Medi-Cal at  
11 any stage of the state administrative process due to the transfer  
12 of assets rule embodied in Welf. & Inst. C §14015 and Title 22 of  
13 the California Administrative Code, as the result of an application  
14 filed on or before June 30, 1981;

15           4. That defendants, their successors in office, agents,  
16 employees, and all persons acting in concert with them, are ordered  
17 to provide plaintiff Beltran, or authorized representative, the  
18 opportunity to present evidence to the appropriate state or county  
19 office responsible for the determination of Medi-Cal eligibility,  
20 on her incurred expenses (whether paid or not), which, except for  
21 application of the transfer of assets rule, would have been paid  
22 for under the Medi-Cal program, to provide her access to the state  
23 administrative process if there are disputes as to whether and how  
24 much she should be paid, and to provide reimbursement for those of  
25 plaintiff's bills which have been paid and to pay the providers for  
26 those bills which remain unpaid, in accordance with the decisions  
27 reached by defendants, their agents, or employees, as to the  
28 amounts owed;



1           5. That defendants, their successors in office, agents,  
2 employees, and all persons acting in concert with them, are ordered  
3 to notify individually all members of the class, or their estates,  
4 who were denied at any stage of the state administrative process  
5 as the result of an application filed on or before June 30, 1981,  
6 by sending via first class mail the notification attached hereto  
7 as Exhibit "A", and its Spanish translation, that their previously  
8 determined eligibility for Medi-Cal due to transfer of property  
9 without adequate consideration should be re-evaluated in light of  
10 this court's determination that the state rule violated federal  
11 law, and that if they are otherwise eligible:

12                   (a) they may be found eligible retroactively  
13                   without regard to any previous transfer  
14                   of assets; and,

15                   (b) that they may request and receive reimburse-  
16                   ment for those costs which have been incurred  
17                   in the same manner and to the same degree as  
18                   is permitted of the named plaintiff in accor-  
19                   dance with paragraph 4 above.

20           6. That defendants shall send the notification described  
21 in paragraph 5 within 120 days of the date of this Order, and  
22 shall file with the court, within 30 days of the mailing of the  
23 notices, a certificate setting forth the names and addresses of  
24 all persons and estates so notified;

25           7. That, in addition to sending of individual notices,  
26 defendants shall, within 60 days of this Order, notify every  
27 hospital in the State of California, and every nursing home or  
28 other medical or treatment facility in the State of California

1 which has a provider agreement with the State, of the court's  
2 decision and of the right of individuals previously denied Medi-Cal  
3 pursuant to the transfer rule to re-apply for Medi-Cal in the same  
4 manner as is set out in the individual notices;

5 8. That defendants shall, within 60 days of the date of  
6 this Order, cause a Notice to be published in newspapers of general  
7 circulation throughout California at least once a week for a four-  
8 week period beginning two weeks after the date of this Order. The  
9 English version of the Notice shall be as set out in Exhibit "B" to  
10 this Order. Defendants shall translate it in Spanish, and where  
11 appropriate, shall print either or both versions. Defendants shall  
12 file with this court a certification of the newspapers in which the  
13 Notice was published and the dates of publication within two weeks  
14 after the final Notice appears.

15 9. That, when feasible, defendants shall cause to be  
16 broadcast public service announcements in both English and Spanish,  
17 on television and radio stations during the four-week period that  
18 begins two weeks after the date of this Order. These announcements  
19 shall provide appropriate information, including, but not limited  
20 to, the court's determination that the transfer rule was improper,  
21 that individuals denied may be entitled to retroactive coverage,  
22 and the nature of the steps which they should take to re-apply for  
23 benefits. Defendants shall file a certification with the court  
24 within two weeks after the final announcement is broadcast  
25 describing the nature of the broadcast, and when and over what  
26 stations the broadcasts were made.

27 10. Defendants shall cause to be printed and distributed  
28 posters which explain, in English and Spanish, the nature of the

1 court's decision and the right of individuals to seek retroactive  
2 coverage. These notices are to be displayed prominently in Medi-  
3 Cal field offices, County welfare offices, and in any other offices  
4 in which potentially eligible claimants might seek them. Defendants  
5 should endeavor to have the Social Security Administration agree  
6 to display these notices as well. The exact wording of these  
7 notices should be determined by agreement of the parties, with  
8 the court's approval required if the parties are unable to agree.  
9 Within two weeks of the date of the order in this case, defendants  
10 shall provide plaintiff's attorneys with a proposed draft of these  
11 notices.

12 11. Costs incurred to date shall be taxed by the clerk in  
13 favor of plaintiffs and against defendants. Attorneys' fees shall  
14 be awarded as an element of costs pursuant to 42 U.S.C. §1988.  
15 Plaintiff shall file declarations of attorneys regarding their  
16 time spent and a memorandum discussing the amount of attorneys'  
17 fees to be awarded within 14 days of this Order. Defendants shall  
18 have seven days after service of the declaration and memorandum  
19 to file objections to the amount proposed.

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25 DATED: 2 / 2 / 82

26  
27 1. B. Marshall  
28 CONSUELO B. MARSHALL, JUDGE  
UNITED STATES DISTRICT COURT

IMPORTANT NOTICE

YOU MAY BE ELIGIBLE TO BE REIMBURSED FOR MEDICAL COSTS THAT WERE PAID OR ARE OWED FOR NECESSARY HEALTH CARE WHICH SHOULD HAVE BEEN PAID FOR BY MEDI-CAL.

California has a rule -- known as a "transfer of assets" rule -- by which state officials have denied Medi-Cal eligibility to people who transferred or gave away property before applying for Medi-Cal. Our records indicate that you may be one of those people.

A federal court in Los Angeles has recently declared that state rule invalid. THE COURT ORDERED THE STATE TO NOTIFY PEOPLE WHO WERE DENIED ELIGIBILITY IN THE PAST BECAUSE OF THIS RULE THAT THEY MAY BE ABLE TO RECOVER AMOUNTS WHICH WERE SPENT OR OWED IN THE PAST which the Medi-Cal program should have been paying for. If you have ever been denied Medi-Cal because you transferred, sold, or gave away property to someone else, there are steps you can take which could lead to your recovering for the bills you incurred during the period when the state said you were ineligible for Medi-Cal. You could be eligible to recover these past amounts even if you are now eligible for and receiving Medi-Cal.

In accordance with the court's order, the Department of Health Services is obligated to redetermine whether you would have been eligible for Medi-Cal if the state had not been using the "transfer of assets" rule. In order to determine what amount,

1 if any, you (or your doctor, pharmacist, nursing home, etc.) is  
2 entitled to, you should contact your local Medi-Cal district  
3 office and arrange for a new determination of your past eligibility.  
4 You or your representative should be prepared to bring any records  
5 which would indicate the nature and amount of medical expenses  
6 which you, your relatives, or friends may have incurred as a result  
7 of the state previously denying your application.

8 If you are dissatisfied with the new determination,  
9 either because the state says that you were still ineligible for  
10 that period or because the state decides to repay you less than  
11 the amount you think is right, you will have an opportunity to  
12 seek a fair hearing and to otherwise contest the state's decision,  
13 just as you would in any other situation where the state decides  
14 against you.

15 Although you are under no obligation to take any action  
16 in response to this letter, it is your benefit to do so. You  
17 may be eligible to be reimbursed for bills you have already paid,  
18 or to have outstanding bills paid for under Medi-Cal.

19 If you have any questions about this letter and the  
20 procedure it discusses, you should contact your attorney, or your  
21 nearest legal aid or legal assistance for the elderly office, or  
22 your local County Welfare office. You can also contact your local  
23 Medi-Cal office if you want to ask about the situation.

24  
25  
26  
27 BEVERLEE A. MYERS, DIRECTOR  
28 CALIFORNIA DEPARTMENT OF  
HEALTH SERVICES.

[NEWSPAPER NOTICE]

NOTICE TO MEDI-CAL APPLICANTS AND RECIPIENTS

The federal court in Los Angeles ruled recently that California's "transfer of assets" rule is invalid because it conflicts with federal law. The rule allowed state officials to deny Medi-Cal coverage to aged, blind, and disabled applicants who transferred, gave away, or sold property prior to applying for Medi-Cal benefits.

The court's order requires the state to notify people who were previously denied eligibility of their right to seek reimbursement for bills incurred -- whether since paid or not -- which would otherwise have been covered by Medi-Cal. Anyone who thinks they fit into this category should contact their local Medi-Cal office and file a new application for the period in which they were found ineligible. If dissatisfied with the state's determination, the applicants will have a right to appeal the decision through the state's administrative process. But no reimbursement for incurred bills can be made unless an application is filed.

Questions about the court's ruling and the procedure outlined above should be directed to an attorney, to a legal aid or legal assistance for the elderly office, or to an office of the California Department of Aging.